DOCUMENT RESUME

ED 371 723 IR 016 651

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TITLE Confidentiality of Patron Records in Electronic Library Circulation Systems.
PUB DATE 22 Apr 94
NOTE 12p.; Paper presented at the Regional Conference on the History and Philosophy of Science (18th, Boulder, CO, April 22, 1994).
PUB TYPE Viewpoints (Opinion/Position Papers, Essays, etc.) (120) -- Reports - Evaluative/Feasibility (142) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Codes of Ethics; *Confidentiality; Confidential Records; *Data; *Disclosure; Ethics; Freedom of Information; *Information Technology; Library Associations; Library Automation; *Library Circulation; Library Networks; Online Systems; Privacy; Recordkeeping; Records Management; Shared Library Resources; Student Records; Technological Advancement; *Users (Information)
IDENTIFIERS American Library Association

ABSTRACT

Issues concerning the confidentiality of library-patron records in the age of electronics are explored. Confidentiality of patron records is a relatively new concept for libraries and was first introduced in the 1938 Code of Ethics of the American Library Association (ALA). Librarians have worked on a state-by-state basis to protect library records from public disclosure. The advent of sophisticated technology means that a common patron-record format is a necessary component in the development of multisystem library networks. Currently, the National Information Standards Organization, NISO, has drafted a standard format for patron records. Library clerical staff now have access to a great deal of personal information about individuals who come to check out books. Libraries compile and maintain records as a necessary part of doing business. Some of that data is sensitive. So far, libraries have been relatively successful in protecting circulation records from government agencies and private individuals, but they are beginning to find that it is all too easy to collect and share personal information in an automated system. (SLD)

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CONFIDENTIALITY OF PATRON RECORDS IN ELECTRONIC LIBRARY CIRCULATION SYSTEMS

A PAPER PRESENTED AT
THE 18TH REGIONAL CONFERENCE
ON THE HISTORY AND PHILOSOPHY OF SCIENCE:
PRIVACY AND NEW INFORMATION TECHNOLOGIES

APRIL 22, 1994
UNIVERSITY OF COLORADO, BOULDER

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Confidentiality of patron records is a relatively new concept for libraries. For example, librarians in Benedictine monasteries disclosed circulation information regularly. Under the rule of St. Benedict, monks were assigned texts to study. At Lent, the librarian read aloud the circulation records for each monk. If the monk had not studied the book entrusted to him, he was to confess his fault.[1] In early American subscription libraries, circulation information was simply recorded in ledgers which were open for anyone to view.[2] It was not until the last 50 years that American librarians questioned publicly disclosing library records. The American Library Association first introduced the concept in the 1938 Code of Ethics revision with text reading:

> ... it is the librarian's obligation to treat as confidential any private information obtained through contact with library patrons.[3]

The language in the current Code is equally broad. In part it reads:

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[1] Bruce M. Kennedy, "Confidentiality of Library Records: A Survey of Problems, Policies, and Laws," *Law Library Journal* 84 (Fall 1989): 733.
[2] Michael H. Harris, *History of Libraries in the Western World.* Compact Textbook Edition. Scarecrow Press, Inc. 1984, p.173.
[3] "Code of Ethics For Librarians" *American Library Association Bulletin* 33 (February 1939): 129.

> Librarians must protect each user's right to privacy with respect to information sought or received, and materials consulted, borrowed, or acquired.[4]

In addition, the American Library Association's Intellectual Freedom Committee has issued guidelines in 1990 for library administrators titled *Confidentiality and Coping with Law Enforcement Inquiries.* This document specifies that:

> Confidential records should not be made available to any agency of state, federal or local government or any other person (outside the minimum necessary access by library staff), unless a court order requiring disclosure has been entered by a court of competent jurisdiction, after a showing of good cause by the person or agency requesting the records.[5]

But compliance with the Code of Ethics is voluntary and, more importantly, the ALA code carries no consequence. Violation does not result in professional sanctions or fines.

Moreover, in some states, existing laws concerning open access to government information conflicts with the ALA Code of Ethics. Many states have Open Record laws mandating that government records be freely available for public inspection. When challenged, state governments have held that library circulation records are subject to

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[4] American Library Association, "On Professional Ethics," as reproduced in Anne P. Mintz, *Information Ethics: Concerns for Librarianship and the Information Industry,* Jefferson, N.C.; McFarland, 1990, p. 62.

[5] American Library Association Intellectual Freedom Committee, "Confidentiality and Coping with Law Enforcement Inquiries—Guidelines for the Library Administrator," as reproduced in Anne P. Mintz, *Information Ethics: Concerns for Librarianship and the Information Industry,* Jefferson, N.C.; McFarland, 1990, p. 75.

Open Records laws. As a consequence, librarians worked on a state by state basis to pass statues protecting library records from public disclosure. Currently about 30 states have such legislation.[6] There is good reason to seek legislation to protect circulation records. There are hundreds of documented demands for circulation records from individuals and the government. Some have come from sales representatives wanting to develop customer lists. In one case a husband wanted to know if his wife had borrowed books about divorce and in another a parent wanted to know if his child had charged out books on homosexuality. Those seeking to ban controversial literature have often demanded to know who has borrowed those books. The FBI has solicited circulation records to identify potential enemies of the government. And there are several instances of police departments trying to obtain circulation records of "subversive" literature that they believe will identify potential criminals.[7]

Colorado's statute, passed in 1983, typifies the history such legislation. In March of 1981 John Hinckley attempted to assassinate President Reagan. One of the few items in his wallet was a Jefferson County Colorado Public Library card. The press inundated the library with requests for Hinckley's circulation information. The circulation

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[6] Some of these states are: Alaska, Arizona, California, Colorado, Connecticut, District of Columbia, Idaho, Indiana, Illinois, Louisiana, Maine, Massachusetts, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Vermont, Virginia, Washington, Wisconsin, Wyoming. The text of many of these statutes has been compiled in Alan Jay Lincoln, "State Statutes on Confidentiality of Information," *Library & Archival Security* 11(2): 49-77.

[7] Kennedy, p. 737-738.

librarian, acting upon the ALA Code of Ethics, refused to disclose the information. But the county attorney held that circulation records were subject to Colorado's open records law and ordered that they to be disclosed.[8] As a result of that incident, a statute was passed in 1990 that says, in part, that "a publicly-supported library or library system shall not disclose any record or other information which identifies a person as having requested or obtained specific materials or service or as otherwise having used the library." Colorado's law is unique in specifying a $300 maximum fine for disclosing such information.[9]

Into this rather complicated legal situation has come some sophisticated technology. And, as seems to be the case when expensive technology is introduced, things are now even more complicated. What kind of records are stored in an online circulation system? While the details on how circulation systems work varies from library to library, each system contains three large files: a database of item records, a database of patron records, and a database of transaction

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[8] Anne Marie Falsone, "Privacy of Circulation Files," *Journal of Library Administration* 7(Winter 1986): 19.

[9] The complete statute reads:

24-90-119. Privacy of user records

(1) Except as set forth in subsection (2) of this section, a publicly-supported library or library system shall not disclose any record or other information which identifies a person as having requested or obtained specific materials or service or as otherwise having used the library.

(2) Records may be disclosed in the following instances:

(a) When necessary for the reasonable operation of the library;

(b) Upon written consent of the user;

(c) Pursuant to subpoena, upon court order, or where otherwise required by law.

(3) Any library or library system official, employee, or volunteer who disclosed information in violation of this section commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

Source: L. 83, p. 1023, 1.

records. Item records contain brief descriptions of a specific book. There are fields for author, title, bar code number, call number, and so on. Patron records contain name/address information of borrowers. There are fields for ID numbers, addresses, and so on. Transaction records result from the merger of item and patron records. The transaction record contains information about the borrower, the book, when it is due, when it was loaned, and so on. Two of these—the transaction and patron files—present confidentiality problems.

The transaction data most libraries maintain is relatively simple. Included in each record is a patron name, a list of titles *currently* charged out, the date and place charged, any information concerning when it was renewed, the date due, and if overdue, the fines charged against each item. Once a book is discharged from a patron's account, the link between the patron and item is erased and not maintained. Very few circulation systems maintain a history of what a user has checked-out.

Libraries maintain surprisingly detailed personal data about their patrons. This is because name/address information is very important. Once a book is loaned, the name/address information is the only link to that item. At an absolute minimum, libraries will maintain a name, social security number, 2 addresses, 2 telephone numbers, usually home and work, concerning patrons. The character of information collected is different between academic and public libraries. Each have

different constituencies and as a consequence the kind of information collected is different. For example, college students change addresses frequently so academic libraries regularly store their parents address. And public libraries are likely to collect information on any dependents a patron might have.

Currently, the National Information Standards Organization, NISO, which defines standards for libraries and the publishing industry has drafted a standard format for patron records.[10] The intent is that all library circulation systems—public, academic, and special—will use this common format. Standard formats offer libraries certain processing advantages but more importantly, a common patron record format is a necessary component towards development of multi-system library networks.

Because a single record is to serve academic, public, and special libraries, the proposed record includes all fields needed by every library. As a consequence, the record contains 15 major divisions, 51 fields, and 109 subfields. This is a very large record. There is room for more than just a name and an address. In fact, there are several dozen elements, including space for:

passport and visa numbers,
military ID number,
social security number,

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[10] National Information Standards Organization, "Proposed American National Standard Patron Record Data Elements, ANSI/NISO Z39.69-199X" (National Information Standards Organization, 1992), p. 8-13.

driver's license number,
employer address,
job title,
email address,
fax numbers, and even
native language.

There are legitimate reasons why such information is needed. And not all libraries will carry such detailed information about their patrons. But as anyone who has managed a large database can attest, if there is a field being carried in the record information is put into it whether or not it is relevant to the organizational needs.

One reason for this is that information is so easy to get. Such data is rarely hand entered, instead it is automatically loaded into the library computer from other computers. For example, in an academic library setting, a patron database draws from the University payroll database for faculty/staff information and from the Registrar's database for student data. Any information those systems carry can be automatically downloaded into the library's database.

Another reason for carrying such detail is the hope that it will lead to better management decisions. Like most sophisticated computer software, library circulation systems have powerful reporting capabilities. Presumably, the more robust the individual records, the more ways that information can be sorted for management information. For example, it is possible to discover the times different classes of patrons use the library, what portions of the collection are

most heavily used, or the patterns of book losses by different factors. This information can be used to adjust staffing at service desks, prioritize shelving, and target specific groups of patrons for instruction. The budgetary restraints libraries operate under often compels library managers to search for these kinds of patterns to save money.

With managers choosing to carry more data about patrons, library clerical staff now have access to a great deal of personal information about individuals when they come to the circulation desk to check out books. This is not particularly dangerous if there is a reasonable number of staff in which to communicate confidentiality issues. But the more people involved, the more difficult it becomes to maintain security.

The new generation of library computer systems promises to complicate this immensely. The idea is to connect libraries in the same region or state with a common network. All the libraries in the network share the same online catalog, the same circulation system, and the same cataloging system. For example, in Ohio, a patron who searches the online catalog at Ohio State sees the holdings of Cleveland State, University of Cincinnati, Case Western Reserve, Wright State, University of Akron, Cleveland Public Library, the State Library of Ohio—eventually the network will have eighteen major libraries in

the state comprising an online catalog of about thirteen million items.[11]

Patrons can search the catalog, identify a book they need, issue a keyboard command, and have it delivered to their most convenient branch or their campus office. Similarly, they can search databases of articles and, upon command, have the article faxed directly to them. Requests that took interlibrary loan six weeks to fill now come in about three days. A patron can walk into a network library in another city and immediately borrow books. Moreover, they can return those books at their local branch to be returned by courier. As you might expect these services—and these are only a few examples—have become very popular with Ohio's library users.

But for this system to work, each library in the network needs full access to every other library's patron files. If you are in Dayton and an Akron patron wishes to borrow a book, you have to verify that they are eligible and have a record on which to attach the transaction. So with these systems, libraries are beginning to transfer sensitive data to hundreds of terminals across the state. Therefore, a clerk in Cleveland can now tell what patrons have checked out—whether the items checked it out in Cleveland, Columbus, or Cincinnati.

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[11] David F. Kohl, "OhioLINK: Plugging Into Progress," *Library Journal* 118 (16): 43.

Maryland also has such a system installed and Michigan and Illinois have plans to bring up such systems within the next three years. Already, there is discussion about connecting some of these networks to create a multi-state library network. It is not unforseeable, then, that a University of Michigan faculty member will be able to request materials from Ohio State's Chemistry library as easily as materials from a library up the street. But would that same faculty member be comfortable knowing that a clerk in OSU's Chemistry building has access to the titles of books checked out as well as considerable personal information?

Libraries compile and maintain records as a necessary part of doing business. Some of that data is sensitive. And while government agencies and private individuals periodically attempt to seize information, to date, libraries have been relatively successful in protecting circulation records. But like so many other institutions that have become computer-dependent, libraries are finding that it is all too easy to collect and share personal information in an automated system.